

HOUSE BILL No. 1081

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-44-3-3; IC 35-47-4-5.

Synopsis: Resisting law enforcement. Makes resisting law enforcement a Class D felony instead of a Class A misdemeanor. Makes the offense a Class C felony if a person: (1) uses a vehicle after a law enforcement officer identifies himself or herself and orders the person to stop; (2) attempts to obtain possession of certain weapons from a law enforcement officer; (3) causes bodily injury to another person other than the law enforcement officer; or (4) operates a vehicle in a manner that creates a substantial risk of bodily injury to another person; while committing the offense. Makes the offense a Class B felony if a person: (1) draws or uses a deadly weapon; (2) obtains possession of certain weapons from a law enforcement officer; (3) causes bodily injury to a law enforcement officer; or (4) operates a vehicle in a manner that causes serious bodily injury to another person; while committing the offense. Makes the offense a Class A felony if a person operates a vehicle in a manner that causes the death of another person while committing the offense. Makes conforming amendments.

Effective: July 1, 2008.

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January 8, 2008, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1081

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-44-3-3, AS AMENDED BY P.L.143-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 3. (a) A person who knowingly or intentionally:
4 (1) forcibly resists, obstructs, or interferes with a law enforcement
5 officer or a person assisting the officer while the officer is
6 lawfully engaged in the execution of the officer's duties;
7 (2) forcibly resists, obstructs, or interferes with the authorized
8 service or execution of a civil or criminal process or order of a
9 court; or
10 (3) flees from a law enforcement officer after the officer has, by
11 visible or audible means, including operation of the law
12 enforcement officer's siren or emergency lights, identified himself
13 or herself and ordered the person to stop;
14 commits resisting law enforcement, a ~~Class A misdemeanor~~, **Class D**
15 **felony**, except as provided in subsection (b).
16 (b) The offense under subsection (a) is a:
17 (1) ~~Class D~~ **Class C** felony if:



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- 1 (A) the offense is described in subsection (a)(3) and the person
 2 uses a vehicle to commit the offense; or
 3 (B) while committing any offense described in subsection (a),
 4 the person: ~~draws or uses a deadly weapon;~~
 5 (i) **attempts to obtain possession of a firearm, an**
 6 **electronic stun weapon (as defined in IC 35-47-8-1), a**
 7 **stun gun (as defined in IC 35-47-8-2), a taser (as defined**
 8 **in IC 35-47-8-3), a chemical designed to temporarily**
 9 **incapacitate a person, or another device designed to**
 10 **temporarily incapacitate a person from the law**
 11 **enforcement officer;**
 12 (ii) **inflicts bodily injury on or otherwise causes bodily injury**
 13 **to another person other than the law enforcement officer;**
 14 or
 15 (iii) **operates a vehicle in a manner that creates a substantial**
 16 **risk of bodily injury to another person;**
 17 (2) ~~Class C~~ **Class B** felony if, while committing any offense
 18 described in subsection (a), the person:
 19 (A) ~~draws or uses a deadly weapon;~~
 20 (B) **obtains possession of:**
 21 (i) **a firearm;**
 22 (ii) **an electronic stun weapon (as defined in**
 23 **IC 35-47-8-1);**
 24 (iii) **a stun gun (as defined in IC 35-47-8-2);**
 25 (iv) **a taser (as defined in IC 35-47-8-3);**
 26 (v) **a chemical designed to temporarily incapacitate a**
 27 **person; or**
 28 (vi) **another device designed to temporarily incapacitate**
 29 **a person;**
 30 **from the law enforcement officer;**
 31 (C) **inflicts bodily injury on or otherwise causes bodily**
 32 **injury to the law enforcement officer; or**
 33 (D) **operates a vehicle in a manner that causes serious bodily**
 34 **injury to another person; and**
 35 (3) ~~Class B~~ **Class A** felony if, while committing any offense
 36 described in subsection (a), the person operates a vehicle in a
 37 manner that causes the death of another person.
 38 (c) For purposes of this section, a law enforcement officer includes
 39 an enforcement officer of the alcohol and tobacco commission and a
 40 conservation officer of the department of natural resources.
 41 (d) If a person uses a vehicle to commit a felony offense under
 42 subsection (b)(1)(B), (b)(2), or (b)(3), as part of the criminal penalty

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imposed for the offense, the court shall impose a minimum executed sentence of at least:

- (1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;
- (2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or
- (3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended.

SECTION 2. IC 35-47-4-5, AS AMENDED BY P.L.151-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

- (1) committing a serious violent felony in:
 - (A) Indiana; or
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or
- (2) attempting to commit or conspiring to commit a serious violent felony in:
 - (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

- (1) murder (IC 35-42-1-1);
- (2) voluntary manslaughter (IC 35-42-1-3);
- (3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);
- (4) battery as a:
 - (A) Class A felony (IC 35-42-2-1(a)(5));
 - (B) Class B felony (IC 35-42-2-1(a)(4)); or
 - (C) Class C felony (IC 35-42-2-1(a)(3));
- (5) aggravated battery (IC 35-42-2-1.5);
- (6) kidnapping (IC 35-42-3-2);
- (7) criminal confinement (IC 35-42-3-3);
- (8) rape (IC 35-42-4-1);
- (9) criminal deviate conduct (IC 35-42-4-2);

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- 1 (10) child molesting (IC 35-42-4-3);
- 2 (11) sexual battery as a Class C felony (IC 35-42-4-8);
- 3 (12) robbery (IC 35-42-5-1);
- 4 (13) carjacking (IC 35-42-5-2);
- 5 (14) arson as a Class A felony or Class B felony
- 6 (IC 35-43-1-1(a));
- 7 (15) burglary as a Class A felony or Class B felony
- 8 (IC 35-43-2-1);
- 9 (16) assisting a criminal as a Class C felony (IC 35-44-3-2);
- 10 (17) resisting law enforcement as a ~~Class B~~ **Class A** felony or
- 11 ~~Class C~~ **Class B** felony (IC 35-44-3-3);
- 12 (18) escape as a Class B felony or Class C felony (IC 35-44-3-5);
- 13 (19) trafficking with an inmate as a Class C felony
- 14 (IC 35-44-3-9);
- 15 (20) criminal gang intimidation (IC 35-45-9-4);
- 16 (21) stalking as a Class B felony or Class C felony
- 17 (IC 35-45-10-5);
- 18 (22) incest (IC 35-46-1-3);
- 19 (23) dealing in or manufacturing cocaine or a narcotic drug
- 20 (IC 35-48-4-1);
- 21 (24) dealing in methamphetamine (IC 35-48-4-1.1);
- 22 (25) dealing in a schedule I, II, or III controlled substance
- 23 (IC 35-48-4-2);
- 24 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- 25 or
- 26 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).
- 27 (c) A serious violent felon who knowingly or intentionally possesses
- 28 a firearm commits unlawful possession of a firearm by a serious violent
- 29 felon, a Class B felony.
- 30 **SECTION 3. [EFFECTIVE JULY 1, 2008] IC 35-44-3-3 and**
- 31 **IC 35-47-4-5, both as amended by this act, apply only to crimes**
- 32 **committed after June 30, 2008.**

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